



Carnegie Endowment for International Peace

DIVISION OF INTERNATIONAL LAW

Pamphlet No. 20

THE HAGUE CONVENTION (XIII) OF 1907 CONCERNING THE RIGHTS AND DUTIES OF NEUTRAL POWERS IN NAVAL WAR

PUBLISHED BY THE ENDOWMENT
WASHINGTON, D. C.

1915



Digitized by the Internet Archive
in 2017 with funding from
Princeton Theological Seminary Library

<https://archive.org/details/pamphlets20carn>

Preface

In view of the very great interest at the present time in the Conventions and signed Declarations of the First and Second Hague Conferences, and particularly because of the need of accurate information as to ratifications of and adhesions to the Conventions and Declarations relating to war, the Endowment has prepared a series of pamphlets in order that the public may learn from reliable sources the status of these international agreements and the extent to which the Powers now at war are bound by their provisions.

The first pamphlet of this series (No. 3 of the pamphlet series of the Division of International Law) contains the respective Tables of Signatures, Ratifications, Adhesions and Reservations of the Conventions and Declarations of the two Conferences. The compilation has been made from official sources, and the tables have been certified as accurate by the Department of State of the United States. In all cases the reservations contained in the *procès-verbaux*, but only referred to in the official tables issued by the International Bureau of the Permanent Court of Arbitration, have been translated and printed in full, with the references to the official reports where their texts appear. Without the complete text of a reservation it is impossible to know to what extent a Power is bound by a Convention or Declaration.

The Conventions and Declarations, as the case may be, of the two Conferences, are printed separately in the succeeding numbers of the pamphlets, accompanied by the respective lists of countries which have (a) *ratified*, or (b) *adhered to*, or (c) *signed but not ratified* them, with the date of the particular action taken. Each Convention or Declaration is followed also by the texts of reservations, as indicated above respecting the pamphlet containing the Tables of Signatures, Ratifications, etc. (No. 3). The English translations of the original French texts of the several Conventions, Declarations and Final Acts of the Conferences reproduce the official translations of the Department of State, except that a few obvious misprints, and an occasional mistranslation, have been corrected. Marginal notes have been added to facilitate reference.

Inasmuch as most of the Conventions and Declarations of the Conferences concerning war contain a clause to the effect that they only bind belligerents which have ratified them, and then only if all the belligerents are contracting Powers, there is appended a list of the countries now at war and the dates of the formal declarations or announcements of the existence of a state of war.

It should be noted that the Conventions and Declarations are not binding prior to the deposit of ratifications at The Hague. The mere signature of these conventional agreements may be regarded as the indication of an intention to ratify them, but creates no legal obligation. Adhesion has the effect of ratification. In this relation it is proper to remark that only the formal agreements of the Conferences—such as the Conventions and the signed Declarations—contemplate ratification. The informal agreements—such as the unsigned Declarations, Resolutions, Recommendations, and *Vaux*—are not signed separately. They are contained in the Final Act, which is an official summary of the proceedings of each Conference, and as such is signed.

A word should be said about the additional protocol to the Convention for an International Prize Court. It was not agreed upon at the Second Hague Conference, but was subsequently negotiated in order to remove objections to the Prize Court Convention. The signatures to it are indicated in the last column of the table of signatures of the Second Conference.

The Conventions and Declarations are numbered as in the Final Acts.

The official published proceedings of the First Conference are referred to in the footnotes as *Procès-verbaux*, those of the Second as *Actes et documents*. The full titles of the publications are respectively: (1) *Conférence internationale de la paix. La Haye, 18 mai-29 juillet, 1899. Ministère des affaires étrangères. Nouvelle édition. La Haye. Martinus Nijhoff, 1907*; (2) *Deuxième conférence internationale de la paix. La Haye, 15 juin-18 octobre, 1907. Actes et documents. Ministère des affaires étrangères. La Haye, imprimerie nationale, 1907.*

JAMES BROWN SCOTT,
Director of the Division of International Law.

WASHINGTON, D. C.,
December 23, 1914.

CONVENTION (XIII) CONCERNING THE RIGHTS AND DUTIES OF
NEUTRAL POWERS IN NAVAL WAR

Signed at The Hague, October 18, 1907

His Majesty the German Emperor, King of Prussia; [etc.] :

With a view to harmonizing the divergent views which, in the event of naval war, are still held on the relations between neutral Powers and belligerent Powers, and to anticipating the difficulties to which such divergence of views might give rise;

Purpose of
Convention.

Seeing that, even if it is not possible at present to concert measures applicable to all circumstances which may in practice occur, it is nevertheless undeniably advantageous to frame, as far as possible, rules of general application to meet the case where war has unfortunately broken out;

Seeing that, in cases not covered by the present Convention, it is expedient to take into consideration the general principles of the law of nations;

Seeing that it is desirable that the Powers should issue detailed enactments to regulate the results of the attitude of neutrality when adopted by them;

Seeing that it is, for neutral Powers, an admitted duty to apply these rules impartially to the several belligerents;

Seeing that, in this category of ideas, these rules should not, in principle, be altered, in the course of the war, by a neutral Power, except in a case where experience has shown the necessity for such change for the protection of the rights of that Power;

Have agreed to observe the following common rules, which can not however modify provisions laid down in existing general treaties, and have appointed as their plenipotentiaries, namely:

Plenipo-
tentiaries.

[Here follow the names of plenipotentiaries.]

Who, after having deposited their full powers, found in good and due form, have agreed upon the following provisions:

ARTICLE 1

Belligerents
to respect
rights of
neutral Powers.

Belligerents are bound to respect the sovereign rights of neutral Powers and to abstain, in neutral territory or neutral waters, from any act which would, if knowingly permitted by any Power, constitute a violation of neutrality.

ARTICLE 2

Hostile acts
in neutral
waters
forbidden.

Any act of hostility, including capture and the exercise of the right of search, committed by belligerent war-ships in the territorial waters of a neutral Power, constitutes a violation of neutrality and is strictly forbidden.

ARTICLE 3

Release of
ships captured:
by neutral
Power.

When a ship has been captured in the territorial waters of a neutral Power, this Power must employ, if the prize is still within its jurisdiction, the means at its disposal to release the prize with its officers and crew, and to intern the prize crew.

by captor
Government.

If the prize is not in the jurisdiction of the neutral Power, the captor Government, on the demand of that Power, must liberate the prize with its officers and crew.

ARTICLE 4

Prize courts
forbidden in
neutral
territory.

A prize court can not be set up by a belligerent on neutral territory or on a vessel in neutral waters.

ARTICLE 5

Use of neutral
ports by
belligerents
forbidden.

Belligerents are forbidden to use neutral ports and waters as a base of naval operations against their adversaries, and in particular to erect wireless telegraphy stations or any apparatus for the purpose of communicating with the belligerent forces on land or sea.

ARTICLE 6

War supplies
to belligerents
forbidden.

The supply, in any manner, directly or indirectly, by a neutral Power to a belligerent Power, of war-ships, ammunition, or war material of any kind whatever, is forbidden.

ARTICLE 7

A neutral Power is not bound to prevent the export or transit, for the use of either belligerent, of arms, ammunitions, or, in general, of anything which could be of use to an army or fleet.

Right of export, etc., allowed.

ARTICLE 8

A neutral Government is bound to employ the means at its disposal to prevent the fitting out or arming of any vessel within its jurisdiction which it has reason to believe is intended to cruise, or engage in hostile operations, against a Power with which that Government is at peace. It is also bound to display the same vigilance to prevent the departure from its jurisdiction of any vessel intended to cruise, or engage in hostile operations, which had been adapted entirely or partly within the said jurisdiction for use in war.

Arming, etc., for hostile use to be prevented by neutral.

ARTICLE 9

A neutral Power must apply impartially to the two belligerents the conditions, restrictions, or prohibitions made by it in regard to the admission into its ports, roadsteads, or territorial waters, of belligerent war-ships or of their prizes.

Impartiality to belligerents.

Nevertheless, a neutral Power may forbid a belligerent vessel which has failed to conform to the orders and regulations made by it, or which has violated neutrality, to enter its ports or roadsteads.

Prohibitions allowed.

ARTICLE 10

The neutrality of a Power is not affected by the mere passage through its territorial waters of war-ships or prizes belonging to belligerents.

Passing through neutral waters allowed.

ARTICLE 11

A neutral Power may allow belligerent war-ships to employ its licensed pilots.

Pilots.

ARTICLE 12

In the absence of special provisions to the contrary in the legislation of a neutral Power, belligerent war-ships are not permitted to remain in the ports, roadsteads, or territorial waters of the said Power

Temporary stay in ports.

for more than twenty-four hours, except in the cases covered by the present Convention.

ARTICLE 13

Departure of war-ships on outbreak of hostilities.

If a Power which has been informed of the outbreak of hostilities learns that a belligerent war-ship is in one of its ports or roadsteads, or in its territorial waters, it must notify the said ship to depart within twenty-four hours or within the time prescribed by local regulations.

ARTICLE 14

Detention by reason of damage, etc.

A belligerent war-ship may not prolong its stay in a neutral port beyond the permissible time except on account of damage or stress of weather. It must depart as soon as the cause of the delay is at an end.

Vessels permitted to remain.

The regulations as to the question of the length of time which these vessels may remain in neutral ports, roadsteads, or waters, do not apply to war-ships devoted exclusively to religious, scientific, or philanthropic purposes.

ARTICLE 15

Maximum of war-ships allowed in ports.

In the absence of special provisions to the contrary in the legislation of a neutral Power, the maximum number of war-ships belonging to a belligerent which may be in one of the ports or roadsteads of that Power simultaneously shall be three.

ARTICLE 16

Departure of war-ships of both belligerents.

When war-ships belonging to both belligerents are present simultaneously in a neutral port or roadstead, a period of not less than twenty-four hours must elapse between the departure of the ship belonging to one belligerent and the departure of the ship belonging to the other.

Order of departure.

The order of departure is determined by the order of arrival, unless the ship which arrived first is so circumstanced that an extension of its stay is permissible.

Allowance to merchant ships.

A belligerent war-ship may not leave a neutral port or roadstead until twenty-four hours after the departure of a merchant ship flying the flag of its adversary.

ARTICLE 17

In neutral ports and roadsteads belligerent war-ships may only carry out such repairs as are absolutely necessary to render them seaworthy, and may not add in any manner whatsoever to their fighting force. The local authorities of the neutral Power shall decide what repairs are necessary, and these must be carried out with the least possible delay.

Repairs permitted war-ships.

ARTICLE 18

Belligerent war-ships may not make use of neutral ports, roadsteads, on territorial waters for replenishing or increasing their supplies of war material or their armament, or for completing their crews.

Use of neutral ports, etc., by war-ships forbidden.

ARTICLE 19

Belligerent war-ships may only revictual in neutral ports or roadsteads to bring up their supplies to the peace standard.

Revictualing permitted.

Similarly these vessels may only ship sufficient fuel to enable them to reach the nearest port in their own country. They may, on the other hand, fill up their bunkers built to carry fuel, when in neutral countries which have adopted this method of determining the amount of fuel to be supplied.

Fuel.

If, in accordance with the law of the neutral Power, the ships are not supplied with coal within twenty-four hours of their arrival, the permissible duration of their stay is extended by twenty-four hours.

Time for coaling.

ARTICLE 20

Belligerent war-ships which have shipped fuel in a port belonging to a neutral Power may not within the succeeding three months replenish their supply in a port of the same Power.

Restriction on recoaling.

ARTICLE 21

A prize may only be brought into a neutral port on account of unseaworthiness, stress of weather, or want of fuel or provisions.

When prizes may enter neutral ports.

It must leave as soon as the circumstances which justified its entry are at an end. If it does not, the neutral Power must order it to leave at once; should it fail to obey, the neutral Power must employ the means at its disposal to release it with its officers and crew and to intern the prize crew.

Duration of stay.

ARTICLE 22

Release
of prizes.

A neutral Power must, similarly, release a prize brought into one of its ports under circumstances other than those referred to in Article 21.

ARTICLE 23

Sequestration
of prizes.

A neutral Power may allow prizes to enter its ports and roadsteads, whether under convoy or not, when they are brought there to be sequestered pending the decision of a Prize Court. It may have the prize taken to another of its ports.

Prize crews.

If the prize is convoyed by a war-ship, the prize crew may go on board the convoying ship.

If the prize is not under convoy, the prize crew are left at liberty.

ARTICLE 24

Detention of
war-ships
refusing
to leave.

If, notwithstanding the notification of the neutral Power, a belligerent ship of war does not leave a port where it is not entitled to remain, the neutral Power is entitled to take such measures as it considers necessary to render the ship incapable of taking the sea during the war, and the commanding officer of the ship must facilitate the execution of such measures.

Officers
and crew.

When a belligerent ship is detained by a neutral Power, the officers and crew are likewise detained.

Disposition.

The officers and crew thus detained may be left in the ship or kept either on another vessel or on land, and may be subjected to the measures of restriction which it may appear necessary to impose upon them. A sufficient number of men for looking after the vessel must, however, be always left on board.

Officers
paroled.

The officers may be left at liberty on giving their word not to quit the neutral territory without permission.

ARTICLE 25

Surveillance of
neutral Powers.

A neutral Power is bound to exercise such surveillance as the means at its disposal allow to prevent any violation of the provisions of the above articles occurring in its ports or roadsteads or in its waters.

ARTICLE 26

The exercise by a neutral Power of the rights laid down in the present Convention can under no circumstances be considered as an unfriendly act by one or other belligerent who has accepted the articles relating thereto.

Exercise of neutral rights not an unfriendly act.

ARTICLE 27

The contracting Powers shall communicate to each other in due course all laws, proclamations, and other enactments regulating in their respective countries the status of belligerent war-ships in their ports and waters, by means of a communication addressed to the Government of the Netherlands, and forwarded immediately by that Government to the other contracting Powers.

Promulgation of laws, etc., in force.

ARTICLE 28

The provisions of the present Convention do not apply except to the contracting Powers, and then only if all the belligerents are parties to the Convention.

Contracting Powers only affected.

ARTICLE 29

The present Convention shall be ratified as soon as possible.

The ratifications shall be deposited at The Hague.

The first deposit of ratifications shall be recorded in a *procès-verbal* signed by the representatives of the Powers which take part therein and by the Netherland Minister for Foreign Affairs.

Ratification.

Deposit at The Hague.

The subsequent deposits of ratifications shall be made by means of a written notification addressed to the Netherland Government and accompanied by the instrument of ratification.

A duly certified copy of the *procès-verbal* relative to the first deposit of ratifications, of the ratifications mentioned in the preceding paragraph, as well as of the instruments of ratification, shall be at once sent by the Netherland Government, through the diplomatic channel, to the Powers invited to the Second Peace Conference, as well as to the other Powers which have adhered to the Convention. In the cases contemplated in the preceding paragraph, the said Government shall inform them at the same time of the date on which it received the notification.

Certified copies to Powers.

ARTICLE 30

Adhesion of
non-signatory
Powers.
Notification
of intent.

Non-signatory Powers may adhere to the present Convention.

The Power which desires to adhere notifies in writing its intention to the Netherland Government, forwarding to it the act of adhesion, which shall be deposited in the archives of the said Government.

Communication
to other
Powers.

That Government shall at once transmit to all the other Powers a duly certified copy of the notification as well as of the act of adhesion, mentioning the date on which it received the notification.

ARTICLE 31

Effect of
ratification.

The present Convention shall come into force in the case of the Powers which were a party to the first deposit of the ratifications, sixty days after the date of the *procès-verbal* of that deposit, and, in the case of the Powers who ratify subsequently or who adhere, sixty days after the notification of their ratification or of their decision has been received by the Netherland Government.

ARTICLE 32

Denunciation.

In the event of one of the contracting Powers wishing to denounce the present Convention, the denunciation shall be notified in writing to the Netherland Government, who shall at once communicate a duly certified copy of the notification to all the other Powers, informing them of the date on which it was received.

Notifying
Power only
affected.

The denunciation shall only have effect in regard to the notifying Power, and one year after the notification has been made to the Netherland Government.

ARTICLE 33

Register.

A register kept by the Netherland Ministry for Foreign Affairs shall give the date of the deposit of ratifications made by Article 29, paragraphs 3 and 4, as well as the date on which the notifications of adhesion (Article 30, paragraph 2) or of denunciation (Article 32, paragraph 1) have been received.

Each contracting Power is entitled to have access to this register and to be supplied with duly certified extracts.

Signing.

In faith whereof the plenipotentiaries have appended their signatures to the present Convention.

Deposit
of original.

Done at The Hague, the 18th October, 1907, in a single copy, which

shall remain deposited in the archives of the Netherland Government, and duly certified copies of which shall be sent, through the diplomatic channel, to the Powers which have been invited to the Second Peace Conference.

Certified copies
to Powers.

[Here follow signatures.]

RATIFICATIONS, ADHESIONS AND RESERVATIONS

The foregoing Convention was *ratified* by the following signatory Powers on the dates indicated:

Austria-Hungary	November 27, 1909
Belgium	August 8, 1910
Brazil	January 5, 1914
Denmark	November 27, 1909
France	October 7, 1910
Germany	November 27, 1909
Guatemala	March 15, 1911
Haiti	February 2, 1910
Japan	December 13, 1911
Luxemburg	September 5, 1912
Mexico	November 27, 1909
Netherlands	November 27, 1909
Norway	September 19, 1910
Panama	September 11, 1911
Portugal	April 13, 1911
Roumania	March 1, 1912
Russia	November 27, 1909
Salvador	November 27, 1909
Siam	March 12, 1910
Sweden	November 27, 1909
Switzerland	May 12, 1910

Adhesions:

China	January 15, 1910
Liberia	February 4, 1914
Nicaragua	December 16, 1909
United States	December 3, 1909

The following Powers signed the Convention but have not yet ratified:

Argentine Republic	Italy
Bolivia	Montenegro
Bulgaria	Paraguay
Chile	Persia
Colombia	Peru
Dominican Republic	Servia
Ecuador	Turkey
Great Britain	Uruguay
Greece	Venezuela

*Reservations:*¹

China

Adhesion with reservation of paragraph 2 of Article 14, paragraph 3 of Article 19, and of Article 27.

Dominican Republic

With reservation regarding Article 12.

Germany

Under reservation of Articles 11, 12, 13 and 20.²

Great Britain

Under reservation of Articles 19 and 23.

Japan

With reservation of Articles 19 and 23.²

Persia

Under reservation of Articles 12, 19 and 21.

Siam

Under reservation of Articles 12, 19 and 23.²

Turkey

Under reservation of the declaration concerning Article 10 contained in the *procès-verbal* of the eighth plenary session of the Conference held on October 9, 1907.

¹All these reservations, except those of China and the United States, were made at signature.

²Reservation maintained at ratification.

Extract from the procès-verbal:

The Ottoman delegation declares that the straits of the Dardanelles and the Bosphorus can not in any case be referred to by Article 10. The Imperial Government could undertake no engagement whatever tending to limit its undoubted rights over these straits.¹

United States

The act of adhesion contains the following reservation:

That the United States adheres to the said Convention, subject to the reservation and exclusion of its Article 23 and with the understanding that the last clause of Article 3 thereof implies the duty of a neutral Power to make the demand therein mentioned for the return of a ship captured within the neutral jurisdiction and no longer within that jurisdiction.

¹Statement of Turkhan Pasha. *Actes et documents*, vol. i, p. 285.

